

Staff Requirements Memorandum (M020206B)
October 31, 2002

and

Staff Response

Attachment 1

IN RESPONSE, PLEASE
REFER TO: M020206B

March 12, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

Karen D. Cyr
General Counsel

FROM: Annette L. Vietti-Cook, Secretary */RA/*

SUBJECT: STAFF REQUIREMENTS - BRIEFING ON EEO PROGRAM
(SECY-02-0011), 9:30 A.M., WEDNESDAY, FEBRUARY 6, 2002,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT
NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC
ATTENDANCE)

The Commission was briefed by the NRC staff on the Equal Employment Opportunity (EEO) Program. In addition, the Director of the Office of Nuclear Material Safety and Safeguards (NMSS) provided an overview of EEO efforts in that office, and representatives of each EEO advisory committee and the National Treasury Employees Union (NTEU) made presentations to the Commission.

The staff should consider the following as it continues its efforts to ensure both a high quality and diverse workforce at NRC:

1. study how the attrition rate at NRC generally, and within specific offices, compares with other federal agencies and the private sector, and what best practices might be adapted at NRC.
2. examine how Federally-mandated outsourcing may impact diversity at NRC.
3. consider how the Commission itself can contribute to the staff efforts to manage diversity.
4. reexamine the issue of whether Waste Fund monies could be used to fund students and faculty at historically black colleges and universities for projects at the Center for Nuclear Waste Regulatory Analyses (CNWRA) and other national laboratories.
5. seek legislative authority, similar to that granted by Congress to the Department of Defense, to fund incentive programs to attract students and faculty at Hispanic-serving colleges and universities.
6. explore how to take advantage of an anticipated near-term growth in staff to improve the age balance in the NRC workforce.

7. examine through yearly reviews how to ensure that managers nurture new hires in ways that positively affect the retention rate.
8. focus on improving communications with all employees about the agency's personnel and EEO processes.
9. continue to work toward the elimination of any backlog through the use of the ADR process.

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

June 30, 2002

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers */RA/*
Executive Director for Operations

SUBJECT: STAFF REQUIREMENTS MEMORANDUM (SRM M020206B)
FOLLOWING THE EEO COMMISSION BRIEFING

In response to the Staff Requirements Memorandum (Attachment 1) the staff is providing the following information:

1. Study how the attrition rate at NRC generally, and within specific offices, compares with other federal agencies and the private sector, and what best practices might be adapted at NRC.

The Office of Human Resources performed a preliminary survey of available data on permanent attrition. The results are summarized in Attachment 2. The data show that the NRC, like other Federal agencies, has a much lower attrition rate than the average combined rate for all sectors in the United States. The NRC also has a lower rate than the Federal sector as a whole, and one that is generally in line with the attrition of agencies with a similar technical makeup.

When compared with specific agencies of similar technical makeup, such as DOE, EPA, NASA, and NSF, there appears to be a correlation between agency size and attrition rate, with the larger agencies enjoying a lower rate. It is not known at this time if the lower rates are attributable to the agencies' respective sizes or to retention programs, internal advancement opportunities, or external factors. Narrowing the focus of the agency comparison to professional/administrative positions and again to scientific and technical occupations relevant to NRC's mission yields similar results.

Comparing the NRC attrition rate to selected Headquarters and Regional offices shows that offices and regions are generally in line with the Agency as a whole, and generally better than the government-wide rates.

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2. Examine how Federally-mandated outsourcing may impact diversity at NRC.

The President's government-wide management reforms include the objective to expand A-76 competition. The purpose of such increased competition is to place work with the most cost effective public or private organization. For FY 2002, OMB has directed agencies to perform public-private or direct conversion competition on not less than 5 percent of the Full Time Equivalent (FTE) positions performing commercial activities. This target will increase to 10 percent in FY 2003. Outsourcing should occur only in those instances where it is demonstrated that a contractor can perform the commercial activity at a lower cost than the Federal agency.

We plan to directly convert vacant positions to contract, or to use streamlined cost comparison procedures to help meet the OMB targets. In instances where the Agency performs streamlined cost comparisons, the strategy envisions cross-training and reassignment for any employee who may be displaced as a result of the streamlined cost comparisons.

At the present time, no specific commercial activity has been identified for streamlined cost comparisons. The absolute impact of competitive sourcing on diversity at the NRC is not yet known and cannot be reasonably predicted at this time. However, several positions identified in the inventory have traditionally been encumbered by women and minorities. Factors such as core capabilities, critical skills, number of employees affected by the competition in a given branch, and diversity will be considered as FTE are identified for streamlined cost comparisons.

3. Consider how the Commission itself can contribute to the staff efforts to manage diversity.

We recommend that the Commission consider the following: 1) increase the number of women and minorities in Commissioner offices, through rotation or permanent assignments 2) participate in agency recruiting when possible, and 3) when meeting periodically with senior managers, include a discussion regarding EEO and Diversity.

4. Reexamine the issue of whether Waste Fund monies could be used to fund students and faculty at Historically Black Colleges and Universities for projects at the Center for Nuclear Waste Regulatory Analyses (CNWRA) and other national laboratories.

Based on staff and Office of General Counsel (OGC) research, it has been determined that waste fund monies may be used to fund student and faculty participation in projects at the Center. The Office of Nuclear Materials Safety and Safeguards, which manages the CNWRA contract, has agreed to set aside \$20K for this activity during FY 2002. The monies will be used to pay stipends or salaries in direct support of activities in the CNWRA's approved Operations Plan for the Repository Program. SBCR will continue to cover administrative cost associated with managing the interagency agreement. We will continue to evaluate the success of this effort to determine if additional monies should be set aside in FY 2003 and beyond.

5. Seek legislative authority, similar to that granted by Congress to the Department of Defense, to fund incentive programs to attract students and faculty at Hispanic-serving colleges and universities.

An Agency program based solely on ethnic classifications must satisfy requirements articulated by the U.S. Supreme Court in the case of *Adarand Constructors v. Peña*. That case addresses constitutional requirements for "affirmative action" programs providing preferences based on race or ethnicity. Under *Adarand*, prior to legislative enactment that provides a benefit based on race or ethnicity, there must exist a "strong basis in evidence" that demonstrates current or lingering discrimination and the need for remedial measures by the government. Moreover, the legislative proposal and resulting program must be narrowly tailored to remedy the discriminatory impact on a temporary basis. We are not aware of sufficient, strong factual basis in evidence that demonstrates discrimination against Hispanic-serving institutions that would provide sufficient legal justification for NRC funding of incentive programs that are limited exclusively to Hispanic-serving educational institutions.

The Department of Defense's (DOD) statutory Section 1207 program is primarily economically based (rather than ethnicity-based) with the added achievement of annual goals by increasing the offered prices of non-minority bidders to enhance the likelihood that the minority bidders will receive the contract. The DOD statutory Section 1207 program includes a grouping of minority institutions as part of the Small Business Act's Small and Disadvantaged Business (SDB) program. Moreover, even the DOD statutory Section 1207 program has been required to meet the very stringent *Adarand* standard. The DOD program is currently being challenged on "strict scrutiny" constitutional grounds in the Federal courts because of the absence of a strong evidentiary basis to show that discrimination has occurred.

For the reasons described, the Staff does not recommend proceeding at this time with a request for legislative authority to fund programs limited to Hispanic-serving institutions.

6. Explore how to take advantage of an anticipated near-term growth in staff to improve the age balance in the NRC workforce.

At the end of fiscal year 2000, the ratio of employees over the age of 60 versus the number of employees under the age of 30 was 6:1. That ratio changed to 4:1 during FY 2001 by hiring more entry-level employees than in previous years. Entry level/intern hires tend to be younger which impacts the age ratio.

Twenty-five (38%) of 65 new employees who started with the agency between October 1, 2001-April 6, 2002 are at the entry and intermediate levels. This continued entry level/intern hiring changed the ratio to 3:1. An additional 42 Nuclear Safety Intern Program and other entry-level employees are scheduled to come on board throughout the remainder of this fiscal year. The EDO has a goal to hire at least 22% of professionals at the entry-level. This goal continues to serve several management interests, including increased diversity in the Agency and enhanced opportunities to replace needed skills and expertise that are lost when more experienced staff members retire.

7. Examine through yearly reviews how to ensure that managers nurture new hires in ways that positively affect the retention rate.

The Director of Human Resources has advised Office Directors and Regional Administrators that performance appraisals of SES managers, whose responsibilities include oversight and/or mentoring of new hires, should address accomplishments in this area. Since the majority of first-level supervisors are not senior executives, the same message will also be included in the memorandum that is issued annually in August/September regarding preparation of non-SES appraisals.

Written guidance has been developed to assist supervisors in nurturing new hires. This guidance will be given to supervisors when they hire new employees. Similar guidance is included in the Nuclear Safety Intern Program Manual for use by mentors. Additionally, nurturing and mentoring of new employees, especially entry-level hires, is emphasized in the "Human Resources Management Practices" course which is mandatory for new supervisors.

8. Focus on improving communications with all employees about the agency's personnel and EEO processes.

Effective communication regarding the Agency's personnel and Equal Employment Opportunity (EEO) processes continues to be a challenge, which we believe requires a multi-faceted approach. To improve communications in this area, managers and employees must work cooperatively to share information and address issues early. We have several initiatives underway to improve communications:

- a) The Deputy Executive Director for Management Services has initiated a series of meetings with several employee groups to discuss workplace issues specific to hiring, career development, upward mobility, mentoring and sponsorship for members of those groups. The staff has developed an action plan to address issues identified by the group and implementation is proceeding. Managers were sensitized to these issues during the Senior Management Meeting held earlier this year.
- b) Human Resource representatives attend program office staff meetings throughout the Agency to answer employee questions and provide information regarding various personnel processes. HR will continue this practice and expand such participation as opportunities arise.
- c) The merit staffing brochure has been revised to reflect updated and new information regarding the merit process and temporary promotions. The revised brochure will be made available to all employees later this fiscal year.
- d) The course "*Human Resources Management Practices*" is offered to all managers and supervisors. This course covers a variety of personnel regulations and practices, such as leave administration, hours of work, position evaluation, and merit staffing.

- e) The course *EEO and Diversity for Managers and Supervisors*, has been updated and incorporates information on managing diversity, reasonable accommodation and the Rehabilitation Act, preventing harassment in the workplace and the latest changes in the discrimination complaint regulations, including the Alternate Dispute Resolution process. This course is designed to help managers and supervisors understand their responsibilities with respect to EEO, affirmative employment and managing diversity. Six sessions of the course have been scheduled for this fiscal year, and we will schedule additional sessions, as needed. All managers and supervisors are encouraged to attend this course.
- f) The staff is routinely provided information, via EEO counselors and the staff from the Office of Small Business and Civil Rights (SBCR), on employee rights and responsibilities in the EEO process. This includes the Alternative Dispute Resolution Process, which is designed to resolve allegations of discrimination at the lowest level possible and at the earliest stage of the process.
- g) The Office of Small Business and Civil Rights (SBCR) meets regularly with EEO Advisory Committee members to discuss EEO-related trends and issues that may impact groups of employees. Committee members are routinely provided information and data regarding the agency's EEO challenges, accomplishments, and initiatives. Several office directors and regional administrators also meet with members of EEO Advisory committees to discuss issues specific to their respective offices.
- h) HR has developed a new human resources management course for supervisors and managers. The course is designed to provide tools to enhance their communication and feedback skills and will be mandatory for all managers and supervisors. A pilot session has been completed and sessions will be scheduled through the end of FY 2003.

9. Continue to work toward the elimination of any backlog through the use of the ADR process.

The ADR process for resolving allegations of discrimination was implemented in the Agency just over two years ago. It has proven to be an expeditious and effective way to resolve allegations of discrimination. Since its inception, a total of 18 employees have requested ADR and of this number only two filed formal complaints. We continue to encourage employees and managers to use the ADR process.

To further aid in mediating settlements, an SBCR staff person has been trained in mediation and serves as an in-house neutral third-party to help resolve disputes in a way that is mutually acceptable to both parties.

Attachments: As stated (2)

cc: SECY
 CFO
 OGC
 OCA
 OPA
 ADM
 NMSS

Attachment 2

U.S. Nuclear Regulatory Commission Permanent Attrition Comparison			
	Attrition FY 1999	Attrition FY 2000	Attrition FY 2001
Nationwide¹	14.40%	15.60%	13.20%
Government Agencies²			
Permanent Employees			
All Federal Agencies	7.94%	7.56%	7.27%
DOE	4.65%	5.39%	5.20%
EPA	4.25%	4.82%	4.89%
NSF	7.22%	6.26%	7.04%
NASA	4.74%	5.15%	4.60%
NRC	7.63%	5.72%	5.93%
Professional/Administrative			
All Federal Agencies	6.38%	6.10%	5.79%
DOE	4.70%	5.08%	4.96%
EPA	3.88%	4.55%	4.75%
NSF	6.72%	5.90%	6.29%
NASA	4.22%	4.50%	4.08%
NRC	7.54%	5.11%	5.33%
Scientific/Technical³			
All Federal Agencies	5.58%	7.64%	7.06%
DOE	4.39%	4.94%	4.69%
EPA	3.08%	3.73%	4.35%
NSF	10.78%	7.07%	9.29%
NASA	4.15%	5.82%	5.19%
NRC	6.54%	5.11%	5.41%

¹ Source: Bureau of National Affairs Survey

² Source: OPM Fedscope data

³ Includes employees in Engineering, Physical Sciences, and Statistics/Mathematics Occupations

U.S. Nuclear Regulatory Commission Permanent Attrition Comparison			
	Attrition FY 1999	Attrition FY 2000	Attrition FY 2001
NRC Program Offices			
Permanent Employees			
NRR	6.98%	4.67%	5.31%
NMSS	4.90%	8.24%	6.72%
RES	7.34%	6.52%	7.22%
Region I	7.00%	4.71%	4.42%
Region II	5.82%	4.59%	8.41%
Region III	12.53%	4.81%	3.26%
Region IV	7.51%	8.02%	7.54%
Professional/Administrative			
NRR	6.77%	4.51%	5.06%
NMSS	4.94%	6.79%	5.63%
RES	9.65%	6.17%	6.88%
Region I	5.90%	2.22%	2.84%
Region II	4.91%	4.39%	6.35%
Region III	12.73%	4.43%	3.06%
Region IV	6.90%	6.77%	6.84%
Scientific/Technical³			
NRR	6.86%	4.82%	5.26%
NMSS	4.49%	6.67%	5.76%
RES	8.89%	5.59%	7.72%
Region I	5.87%	2.44%	3.12%
Region II	4.78%	4.91%	5.02%
Region III	13.06%	4.35%	3.51%
Region IV	6.90%	6.84%	5.19%